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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,096	03/24/2004	Benjamin Alfred	14-0011	4155

7590 05/06/2005

Attn: Jeffrey A. Proehl  
Leonard & Proehl, Prof. L.L.C.  
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Sioux Falls, SD 57105-5807

EXAMINER

LE, HUYEN D

ART UNIT PAPER NUMBER

3751

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

# Office Action Summary

Application No.

10/808,096

Applicant(s)

ALFRED, BENJAMIN

Examiner

Huyen Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/24/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Gross (3,021,532).

The Gross reference discloses a plunger for forcing debris through a trap of a toilet comprising a handle member is adapted for being gripped by a hand of a user (col. 2, line 1); a plunger portion 10 being coupled to the handle member, the plunger portion being adapted for being positioned in the bowl of the toilet, the plunger portion 10 being adapted for forcing a fluid down the trap of the toilet to force debris through the trap to allow the bowl of the toilet to drain.

Regarding claim 2, the plunger portion comprises a flexible material, the flexible material being for permitting the plunger portion to conform to the trap and direct the fluid into the trap.

Regarding claim 3, the plunger comprising a bulb member 10 and a sleeve member 32, the sleeve member being coupled to the bulb member 10 such that the sleeve member 32 is in fluid communication with the bulb member 10, the bulb member being coupled to the handle member such that the handle member is for forcing fluid in

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the bulb member through the sleeve member and into the trap of the toilet to force the debris through the trap of the toilet.

Regarding claim 4, the bulb member 10 comprises a perimeter wall, the perimeter wall defining an interior space of the bulb member, the interior space of the bulb member being adapted for containing a fluid to be forced through the trap of a toilet when the bulb portion is compressed by the handle member being actuated by the user.

Regarding claim 5, the sleeve member 32 comprises a peripheral wall, the peripheral wall defining a bore extending through the sleeve member such that the bore is in fluid communication with the interior space of the bulb member 10, the bore being adapted for directing fluid through the bulb member down the trap of the toilet to force the debris through the trap.

Regarding claim 6, the diameter of the sleeve member is less than the diameter of the bulb member 10 such that the reduction in diameter between the bulb member and the sleeve member accelerates the fluid being expelled from the bulb member through the sleeve member to increase pressure in the trap to facilitate forcing the debris through the trap of the toilet.

Regarding claim 7, the plunger portion comprises a plurality of annular rings 36,37,38, each of the annular rings outwardly extending from the sleeve member 32 such that each of the annular rings is positioned substantially perpendicular to a longitudinal axis of the plunger portion, the annular rings are adapted for engaging the surface of the bowl to provide a seal between the sleeve member and the bowl of the

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toilet to inhibit the fluid forced from the bulb member from blowing back between the sleeve member and the bowl of the toilet.

3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Grosvold (D 159,726).

The Grosvold reference discloses a plunger for forcing debris through a trap of a toilet comprising a handle member is adapted for being gripped by a hand of a user; a plunger portion being coupled to the handle member, the plunger portion being adapted for being positioned in the bowl of the toilet, the plunger portion being adapted for forcing a fluid down the trap of the toilet to force debris through the trap to allow the bowl of the toilet to drain.

Regarding claim 2, the plunger portion comprises a flexible material, the flexible material being for permitting the plunger portion to conform to the trap and direct the fluid into the trap.

Regarding claim 3, the plunger comprising a bulb member and a sleeve member, the sleeve member being coupled to the bulb member such that the sleeve member is in fluid communication with the bulb member, the bulb member being coupled to the handle member such that the handle member is for forcing fluid in the bulb member through the sleeve member and into the trap of the toilet to force the debris through the trap of the toilet.

Regarding claim 4, the bulb member comprises a perimeter wall, the perimeter wall defining an interior space of the bulb member, the interior space of the bulb

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member being adapted for containing a fluid to be forced through the trap of a toilet when the bulb portion is compressed by the handle member being actuated by the user.

Regarding claim 5, the sleeve member comprises a peripheral wall, the peripheral wall defining a bore extending through the sleeve member such that the bore is in fluid communication with the interior space of the bulb member, the bore being adapted for directing fluid through the bulb member down the trap of the toilet to force the debris through the trap.

Regarding claim 6, the diameter of the sleeve member is less than the diameter of the bulb member such that the reduction in diameter between the bulb member and the sleeve member accelerates the fluid being expelled from the bulb member through the sleeve member to increase pressure in the trap to facilitate forcing the debris through the trap of the toilet.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grosvold (D 159,726) in view of Gross (3,021,532).

The Grosvold reference shows the sleeve member having an annular ring extending outwardly to provide a seal between the sleeve member and the bowl of a

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toilet, attention directed to the Gross reference which discloses another toilet plunger having a plurality of annular rings.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Gros vold plunger to include a plurality of annular rings in view of the teaching of the Gross reference for enhancing the sealing effect of th plunger with the toilet bowl.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lacey et al, Schubring, Pouliot, Epps, Larson show toilet plungers with bulb members and sleeves.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Huyen Le  
Examiner  
Art Unit 3751

HL  
May 3, 2005